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May 29, 2003

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: D.T.E. 03-24 Rulemaking by the Department of Telecommunications and Energy, pursuant to 220 C.M.R. §§2.00 et. seq. to promulgate regulations to establish a funding mechanism for wireline Enhanced 911 services, relay services for TDD/TTY users, communications equipment distribution for people with disabilities, and amplified handsets at pay telephones, as 220 C.M.R. §§ et. seq.

Dear Ms. Cottrell:

Please accept this letter in lieu of comments in the above captioned proceeding on behalf of AT&T Communications of New England, Inc. ("AT&T"), pursuant to the Department of Telecommunications and Energy's ("Department") May 22, 2003, request for comments to the Office of the Attorney General's *Motion for Leave to File Supplemental Reply Comments* ("Attorney General's Motion").

AT&T supports the Attorney General's Motion, and requests the Department allow all parties in this proceeding an opportunity to file supplemental reply comments.

As AT&T set forth in its April 22, 2003, *letter in lieu of comments* ("AT&T Comments") and its May 9, 2003, *letter in lieu of reply comments* ("AT&T Reply Comments"), and as resonated in the comments of other parties,¹ the E-911 fund deficit determination is an essential element of this rulemaking. Accordingly, the Office of the Attorney General correctly moves the Department to allow parties the opportunity to comment on Verizon's prior Audit. This is especially appropriate given, as further set forth in the Attorney General's Motion, Verizon failed to acknowledge the existence of its prior audit until its reply comments.²

¹ *See* April 22, 2003, *comments of the Office of the Attorney General* ("Attorney General Comments"), at 3.

² D.T.E. 03-24, *The Attorney General's Motion for Leave To File Supplemental Reply Comments Regarding A 1999 Verizon Audit*, May 20, 2003, at 1.

Specifically, parties should be afforded the opportunity to comment on the nature and sufficiency of the Verizon 1998 audit.³ As the Attorney General's Motion identifies, there are a number of deficiencies. To the extent that an audit was conducted five years ago, clearly parties should be afforded an opportunity to provide comment relative to whether any such findings would be relevant today. In fact, the Department alleges that in one year alone, from 2001 to 2002, the deficit grew from \$28.6 million to \$40 million.⁴ Accordingly, parties should be afforded an opportunity to suggest to the Department that a new audit certainly be performed to include the time period from 1998 to the present.

Additionally, parties should be afforded the opportunity to provide comment on the revenue sources that may or may not have been included in the prior audit. For instance, as AT&T described in its Reply Comments, AT&T has recently received a number of backbilled invoices from Verizon for E-911 charges assessed against current and prior AT&T Affiliates retroactive as far back as 2000.⁵ Certainly as AT&T reviews these untimely invoices, it should be afforded the opportunity to comment on whether similar revenue received by Verizon was included in the prior audit. More importantly, parties should be provided an opportunity to provide comment relative to whether these costs should be recovered through the final surcharge, such that that Verizon does not receive double recovery both from consumers as well as CLECs.

Please feel free to contact me with any questions you may have in this or any other regard.

Yours truly,

Jeffrey Fialky

cc: Joan Evans, Esq., Hearing Officer
Michael Isenberg, Esq., Director of the Telecommunications Division
April Mulqueen, Assistant Director of the Telecommunications Division

³ See D.T.E. 03-24, *Reply Comments of Verizon Massachusetts*, May 9, 2003, (while the Verizon audit was performed in 1998, the report was not released until 1999).

⁴ D.T.E. 03-24, *ORDER INSTITUTING RULEMAKING* ("Order"), issued March 13, 2003, at 2.

⁵ AT&T *Reply Comments*, at footnote 12.